



UNITED STATES PATENT AND TRADEMARK OFFICE

AC
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,348	12/12/2001	James Joseph Flood	00241.001	8380

7590 05/06/2003

Whit Bivens
Musick, Peeler & Garrett, LLP
Suite 1900
225 Broadway
San Diego, CA 92101

EXAMINER

GRAHAM, MARK S

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 05/06/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	FLOOD, JAMES JOSEPH	
10/015,348		
Examiner	Art Unit	
Mark S. Graham	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 April 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 and 13-23 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 12-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1-23 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) Other: _____

Art Unit: 3711

Applicant's election without traverse of the process of making a bat in Paper No. 6 is acknowledged.

Claims 1-11 and 16-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected article, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

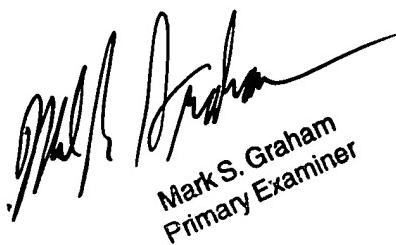
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewark in view of Eggiman et al. (Eggiman). Lewark discloses the claimed method with the exception of the use of a compression wrap during the curing process. However, as disclosed by Eggiman such a step is known in the art when curing composite bats. It would have been obvious to have used such a step in curing Lewark's bat as well to help securely affix Lewark's composite layer.

Regarding claims 14 and 15, Eggiman does not specify the type of shrink tape used but cellophane shrink tape is commonly known and used for such applications and it would have been obvious to one of ordinary skill in the art to have used such for the Lewark/Eggiman bat if such were the most readily available.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 703-308-1355.

MSG
4/28/03



Mark S. Graham
Primary Examiner